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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/537,332

06/02/2005

James Daniel Asbury

209546-98124

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04/08/2008

HONIGMAN MILLER SCHWARTZ & COHN LLP

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EXAMINER

PATEL, KIRAN B

ART UNIT

PAPER NUMBER

3612

MAIL DATE

DELIVERY MODE

04/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/537,332

Applicant(s)

ASBURY ET AL.

Examiner

/Kiran B. Patel/

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 3-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 10-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/55/08)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

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DETAILED ACTION

Non-Final Rejection (4/7/08)

Election/Restriction

Applicant's election with traverse of Invention A, Claims 1-2, Species B Fig 2 is acknowledged. The traversal is on the grounds that claims 1 and 3 have the same limitations, which is not true because having a first layer of chopped fiberglass and method of applying a first layer of chopped layer of fiber glass is not the same. Also, arguments include that there are no five species in the application but support for the species could be found in the specification paragraphs 0013 to 0018.

Claims 3-9 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions and/or species, there being no allowable generic or linking claim.

The requirement is still deemed proper and is therefore made FINAL.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, claim 1 "a first layer of chopped fiberglass adjacent to said binding agent; a scrim adjacent to said first layer of chopped fiberglass" and claim 2 "a second layer of chopped fiberglass adjacent to the other side of said core material, and a layer of film adjacent to said second layer of chopped fiberglass" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be

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Claims 1-4 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions and/or species, there being no allowable generic or linking claim

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Deleted: ¶¶ During a telephone interview with Attorney/Agent Courtney the election was further amended and Claims 17-18 were withdrawn from further consideration as they read on non-elected inventions/species/embodiments.¶

Specification

¶¶ The disclosure is objected to because of the following informalities: ¶

Applicant is reminded of the proper language and format for an abstract of the disclosure.¶

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer (1)

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renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-2, 10-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 recites "a first layer of chopped fiberglass adjacent to said binding agent; a scrim adjacent to said first layer of chopped fiberglass" and claim 2 recites "a second layer of chopped-fiberglass adjacent to the other side of said core material, and a layer of film adjacent to said second layer of chopped fiberglass". It appears that what is shown in the figures is different from what is claimed.

Above are just few examples of the discrepancies and therefore the Applicant is requested to go through the application and ensure that the claimed matter has been described in the specification and shown in the drawing in such a way as to convey to one skilled in the art that the inventors, at the time the application was filed, had possession of the claimed invention. Correction is required.

Deleted: <#>Figure *** should be designated by a legend such as -- Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.¶
9

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Claim 1 recites "wherein said cowl member also includes left and right side openings formed therein, and extending in the longitudinal direction on opposing sides thereof, said left and right side openings traversing an upper portion of the radiator, from a side view thereof, such that said left and right side openings communicate with one another in a width wise direction of the motor cycle, for allowing air to pass therethrough". There are number of "left and right side openings" which openings are being claimed. Limitation "left and right side openings traversing an upper portion of the radiator" is not clearly described in the ... [2]

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Claim Rejections - 35 USC § 112¶
The following is a quotation of the second paragraph of 35 U.S.C. 112:¶
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the ... [3]

Claim Rejections - 35 USC § 102(e)

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-2, 10-12, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by North et al. (6,793,747).

Regarding Claims 1-2, 10-12, as best understood, North et al. (6,793,747) discloses the invention as claimed to include a headliner assembly comprising a layer of core material; a binding agent adjacent to said core material; a first layer of chopped fiberglass adjacent to said binding agent; a scrim adjacent to said first layer of chopped fiberglass; a catalyst adjacent to said scrim; and a cover stock adjacent to said catalyst, wherein said catalyst and said binding agent are mixed together and impregnate said core material when pressure is applied to the headliner assembly, thereby resulting in a rigid headliner assembly; further including a second layer of chopped fiberglass adjacent to the other side of said core material, and a layer of film adjacent to said second layer of chopped fiberglass (abstract).

Conclusion

4. The prior art made of record in attached Notice of Reference Cited (PTO-892) and not relied upon is considered pertinent to applicant's disclosure. This art of record shows various features similar to the applicant's invention.

5. Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Kiran B. Patel whose telephone number is 571-

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Claim Rejections - 35 USC § 103(a)

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:¶

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.¶

¶
Re-Claims 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lumley et al. (5,630,645) as applied to claim 11 and further in view of Curtis et al. (6,447,010).¶
Regarding Claims 12, Lumley et al. (5,630,645) discloses the invention as claimed. ¶

However, Lumley et al. (5,630,645) does not disclose a detection arrangement.¶

Curtis et al. (6,447,010) discloses in Fig 1-7 a detection arrangement.¶
Therefore, it would have been obvious to one having ordinary skill in the art at the time the inv [4]

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272-6665. The examiner can normally be reached on M-F from 8:00 to 5:00. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

/Kiran B. Patel/

Kiran B. Patel P.E.

Primary Examiner

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April 7, 2008